

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	CRIMINAL ACTION NO.
v.	)	2:21cr171-MHT
	)	(WO)
KIMBERLY NICOLE BURTON	)	
	)	

ORDER

This case is before the court on defendant Kimberly Nicole Burton's oral motion to continue her trial. For the reasons set forth below, the court finds that jury selection and trial, now set for October 25, 2021, should be continued pursuant to 18 U.S.C. § 3161.

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared

before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Burton in a speedy trial. Defense counsel expected the case to be resolved by Burton's pleading guilty on October 19, 2021, and he represents that he needs time to resolve the case this way. The government orally represented that it was unopposed to the request trial continuance. The court finds that a continuance of the trial is therefore necessary to ensure that Burton can discuss resolving the case without trial and, if necessary, prepare the case for trial.

\*\*\*

Accordingly, it is ORDERED that defendant Kimberly Nicole Burton's oral motion to continue (Doc. 29) is granted, and the jury selection and trial for defendant Burton, now set for October 25, 2021, are reset for December 6, 2021, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 20th day of October, 2021.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE